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Board Meeting – October 21, 2013

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD)
- Andrew Bedar, Member (AB)
- Mark Trivett, Member (MT)
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director (TH)
- Mark Dempsey, Compliance Officer / Acting Clerk for Proceedings (MD)

Members Not Present:

- Gerald LeBlanc, Member (GL)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

- Meeting began at 9:00 a.m.

1) **Incoming:** Temple Place, 7 Temple St., Cambridge (V13-294)

TH - came in last week, but has letters of support from Larry Brahman and Michael Muehe

- EXHIBIT – Variance application
- need to waive two week waiting period since they are seeking to start the project

MT - waive 2 week waiting period

DM - second – carries

TH - 6 story new building with 40 affordable housing units

- 5 floors of housing with entry lobby and mechanical support spaces, as well as parking at the first floor
- permitting process has taken 7 years
- van accessible space is provided in a small lot, which is directly adjacent to the building, it is in a carport
- there is accessible parking located under the building, but the height of the parking under the building is 7'6", not 8'2", as is required.
- variance for location of van space (521 CMR 23.2.3)
- 80-90' away from building entrance
- variance for height of garage as well, 521 CMR 23.4.7e

CS - grant variance for van parking location, 521 CMR 23.2.3

DM - second – carries with JD opposed

CS - grant the variance for the garage house, 521 CMR 23.4.7e

DM - second – carries with JD opposed

TH - access aisles being clear, there are support columns that hold up the carport roof, over the van accessible parking space, two of the support columns are located in the access aisles

CS - grant the variance for the lack of clearance at the access aisle for the van space

DM - second - carries

2) Incoming Discussion: Tedesco Country Club, 154 Tedesco St., Marblehead (V13-249)

TH - extension request to the originally ordered December 1, 2013 deadline

- seeking until 6/1/14 based on weather concerns
- required to reconstruct parking at the front of the building and walkways
- this was new construction
- original meeting with the Petitioners was in December of 2012, took 8 months to submit the variance application, which was submitted in August
- decision was rendered on September 9, 2013

JD - grant as proposed

DM - second – but amend the date to comply by April 15, 2014

JD - accept date change to 4/15/14

- carries

3) Discussion: Becket Athenaeum, 3367 Main St., Becket (V13-073)

TH - EXHIBIT – submittal of follow-up plan

- plan change to have the stairs location change for the new mezzanine level
- stairs are now moved to the middle of the room

AB - accept change in plan

MT - second – carries with CS opposed

4) Incoming: Residence at Dahlgren Hall, 309 E St., South Boston (V13-277)

TH - EXHIBIT – variance application

- creation of housing within existing historic church building
- 18 residential units; only requirement is 10.1, public and common areas
- asking for variance for the historic church entrance stairs
- elevator within the building, but no accessible units required

AB - grant variance for front entrance

MT - second – carries

TH - other variance for the sloped entrance landing at the accessible entrance

JD - grant lack of level landing at the accessible entrance, on the condition that the slope of the landing is not more than 1:12 and that an automatic door opener is installed

MT - second - carries

5) Incoming Discussion: Dental Office, 418 Mass. Ave., Acton (V13-269)

TH - originally presented on 10/7/13

- at the time, made a decision that no variance needed, based on the information in the application
- requested that the building inspector confirm the information on the application, and do a partial application analysis
- received letter from building official stating that he is now looking into the project, since it appears as though a lot more work has been done

CS - reinforce jurisdiction over the case until a final determination can be made regarding spending

DM - second - carries

6) Incoming Discussion: MIT Building, E52, 50 Memorial Dr., Cambridge (V13-141 & V13-252)

TH - EXHIBIT – new variance application

- originally heard in June and granted what was requested; Notice of Action issued on June 6, 2013
- Larry Brahman realized that E52 is connected to another building
- connector to the building at the third floor of the E52 building, which goes up or down stairs to get to another level
- there are other connecting tunnels

CS - what are the other paths of travel?

TH - other tunnels

Gerald LeBlanc, Member (GL) – now present

TH - argument is technological infeasibility based on the existing structure of the connector

CS - plan of estimated costs

TH - can't use an incline lift since egress stairs, and can't fit a vertical lift

DM - grant variance requested, based on technological infeasibility

MT - second – carries with JD and CS opposed and GL abstaining

DM - require directional signage

MT - second – carries

Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – now present

7) Incoming: City Hall Plaza, 45 School St., Brockton (V13-278)

TH - EXHIBIT – variance application

- renovation of the existing city hall plaza, which surrounds the historic City Hall

- spending \$4million on the plaza; therefore, jurisdiction is work performed

- Independence Associates supports the variances as requested

- 7 variances total

- 1st variance for various areas around the plaza where the cross slope exceeds 2%, highest is 4.6%

CS - grant as proposed for plaza cross slope

DM - second – carries

TH - 2nd variance

- stairs at the northerly side of the building to the north entrance, to be dismantled and reconstructed

- south side entry is accessible and leads to elevator lobby

DM - grant on the condition that stairs and handrails comply

GL - second – carries

TH - 3rd variance

- handrails at amphitheater stairs

- proposing single handrails at two sets of stairs and a center handrail at the other set of stairs

CS - grant variance for amphitheater stair handrails as proposed

M - second – carries

TH - 4th variance

- handrail extensions along the amphitheater stair handrails, where the extensions will extend into path of travel

- allowed by right

DM - no variance required, since meets language of exception regarding safety issue

GL - second – carries

TH - 5th variance

- shape of handrails at amphitheater stairs

- proposing more historic profile

JD - grant as proposed for handrail shape

MT - second – carries

TH - 6th variance

- 3.10 regarding City Hall building will be accessible throughout the construction project

DM - insure that the accessible path of travel is maintained throughout the construction process for those that access city hall by walking or driving

GL - second – carries

TH - 7th variance

- relief for accessible seating within the middle tier of the amphitheater

JD - no variance required with current seating layout as proposed

MT - second - carries

8) Incoming Discussion: Shiso Kitchen, 374 Washington St., Somerville (V13-256)

TH - originally presented on 9/23/13

- proposed teaching kitchen

- 6 inch step up to 450 sq. ft. kitchen space

- EXHIBIT – letter from Robert King, Director of Engineering for the City of Somerville

- letter from King to project architect regarding working with them to do the necessary work on the sidewalk

- building permits for the project were already issued

- seeking a time variance to be allowed to be open, seeking 18-24 months

JD - allow the issuance of a temporary certificate of occupancy to expire by August 1, 2014, on the condition that they use a portable ramp, with a plan for a portable ramp to be submitted by the architect and received by the Board no later than November 1, 2013, to be reviewed by the Board at the November 4th meeting

JL - second - carries

MB - grant for this use, as proposed

GL - second – carries

9) Discussion: Exchange Hall, 2 School St., Acton (V11-110)

TH - follow-up to the 10/8/2013 order
- petitioners provided affidavit, and photo of sign installed at the stage
- also asked him to look at portable lifts and provide that by 10/18/13, but since he complied with the first order, no longer need additional information

JD - accept the submittal of verification of the affidavit and signage at the stage, on the condition that the affidavit regarding the use of the stage is recorded with the local registry of deeds and a copy of the recording is returned to the Board within 60 days receipt of the amended decision of the Board

AB - second – carries

10) Incoming Discussion: 59 Temple Place, aka 505 Washington St., Boston (V13-254)

TH - follow-up to incoming review done on 9/23/13
- at one stair they had proposed no wall side handrail based on a marble wainscoting
- 9/23/13 Notice of Action, granted all variance requested, except that one handrail along the marble wainscoting
- now proposing to provide compliant wall side handrail at Stair 1A

CS - grant the variance for the noncompliant interior handrail, on the condition that compliant wall mounted handrail is provided at Stair 1A

GL - second - carries

11) Incoming: Commercial Building, 42 Merrimac St., Newburyport (V13-276)

TH - EXHIBIT – variance application
- reconstruction / addition of 350 sq. ft. employee use kitchen, total square footage upon completion will be 725 square feet
- spending over 30%
- proposing to be pizza/sub shop
- seeking variance for the lack of an accessible entrance
- no studies regarding access been done

CS - deny, no occupancy can be issued until the accessible entrance issue is resolved

RG - second - carries

CS - grant

MB - second – carries

12) Incoming Discussion: Alpha Theta Sigma Chi House, 532 Beacon St., Boston (V13-263)

- TH - EXHIBIT – request for permit
- originally reviewed on 10/7/13, and scheduled hearing due to multiple variance requests
- hearing scheduled for January 6, 2013
- seeking Board’s approval of at-risk permit being issued by Boston ISD

CS - *allow the issuance of building permit, on the condition that the Petitioners appear at the scheduled hearing before the Board and comply with the order issued from said hearing*

GL - *second - carries*

13) Incoming Discussion: Strip Mall, 55 Riverside Ave., Medford (V13-270)

- TH - previously reviewed at 10/7/13 meeting
- work is to create accessible entry at the rear of the building where the accessible parking is
- variances sought for width of walkway, handrails and extensions
- the variance was granted on the condition that automatic door opener be installed and signage be posted at the door so that they know what the entrance is to
- there is signage at the door, and in order for them to put any other signage on the door, they need to go back before the City of Medford

MT - *accept the submittal of the photographs as meeting the requirements of the Board’s previous order*

JD - *second – carries with DM abstaining*

14) Incoming: Market Basket, 3000-34000 Constitution Ave., Littleton (V13-275)

- TH - EXHIBIT – variance application
- new construction
- proposing LULA to the mezzanine level of the store, instead of full elevator

JD - *grant as proposed*

DM - *second - carries*

15) Discussion: Waverly Station, 525 Trapelo Rd., Belmont (C12-033 & V13-076)

- TH - July 16, 2013 decision, set a 1/1/15 deadline for compliance at Waverly Station
- no status reports originally requested, would like to require status reports to keep track of the project

DM - *reopen*

CS - *second – carries with RG and JD abstaining*

DM - *require that the Petitioners submit a plan for reconstruction and accessibility project by April 1, 2014; and status reports starting January 1, 2014 and every 3 months thereafter, with the next status report due on April 1, 2014 to be the submittal of the required plans*

CS - *second – carries with RG and JD abstaining*

16) Discussion: Crocket House, 78 Oxford St., Cambridge (V13-148)

TH - EXHIBIT – submittal from Petitioners as required per previous decision of the Board
- the most recent submittal, gave cost breakdown of LULA's for vertical access within the building

CS - all estimates for all 2 floors

TH - all options result in loss of functional space, when all common use space is also provided at the first floor
- will still lose four rooms, two at the first floor and two at the second floor, with the installation of a vertical wheelchair lift

JD - concern is that resident advisor at second floor

DM - one at the first floor, one at the second floor

DM - grant variance for vertical access, on the condition that part of the residence intake process includes both student and familial request for access, initiated by the college, and assigned accordingly to the accessible rooms, with said policy to be submitted to and approved by the Board; policy should include language about the resident advisors as well

JD - what about the resident advisor room, since that is on the second floor and the resident director is at the first floor

GL - second – carries with CS and RG opposed

TH - the other variance is for the lack of compliant Group 2B bathrooms at the second and third floors

JD - deny the variance

- withdraw

CS - grant the variance for the lack of compliant Group 2B dimensions, on the condition that approval of policy for upper floors, and that compliant grab bars and an accessible height toilet is provided, per 521 CMR 44.4.2.

AB - second - carries

GL - grant additional time to allow the issuance of a temporary CO up to November 6, 2013

MB - second – carries

17) Incoming: Powder Mill Village, 126 Union St., Westfield (V13-280)

TH - EXHIBIT – variance application
- reconstruction of 250 rental apartments in 10 2-story buildings and 2 3-story buildings
- 2 phases of work, spending over 30%
- seeking a time variance request, to allow until phase 2 (beginning in 2016), to provide the required 6 Group 2A dwelling units

- phase 1A is new gas lines and boilers for all buildings (December 2013)
- Phase 1B starts in Spring of 2014, for windows and other upgrades
- all of the buildings are currently occupied
- they will provide 4 Group2A 2-bedroom and 2 Group 2A 3-bedroom units in Phase 2 of construction

JD - grant until the completion of Phase 2, to allow until 2016 for the required Group 2A units to be provided

DM - second – carries

DM -require status reports every six (6) months, with the first to be submitted on June 1, 2014

MT - second - carries

18) Incoming: Curb cuts at Stockbridge and Old Driftway, Scituate (C10-077 & V13-287)

JD – recuse and leaves the room

- TH - EXHIBIT – variance application
- variance request for time
 - complaint hearing, set a date to comply of 10/31/13
 - bids for the work opened on 9/26/13; seeking to 4/15/14 to comply
 - submittal of plan, asking for a variance for 21.2.1 regarding non-perpendicular curb cuts

DM - grant the variance to 521 CMR 21.2.1 and grant a time variance until April 15, 2014 for the required work to be completed

RG - second – carries

JD now present

19) Discussion: Conte School, Church St., North Adams (V13-273)

- TH - scheduled for a hearing on January 27, 2014
- presented on 10/7/13, and voted to schedule the hearing
 - hoping to start the project as soon as possible
 - first variance to 26.1.2, regarding north and east stair landing at egress doors

MT - grant

GL - second – carries

- TH - next variance for door width at stairs (26.5)
- replacing the doors at the stairs, double doors, but didn't suggest narrow leaf and wide leaf

JD - deny

CS - second – carries

- TH - next variance for 74 doors, seeking variance for 26.6.1 regarding maneuvering clearances
 - located within walls with a frame that is 13 inches thick
 - what rooms are the doors for
- CS - *continue for more information regarding where the doors lead to and the use of the doors; and how automatic door openers may mitigate some of the doors*
 DM - *second – carries*
- TH - stair tread slopes (27.2)
 - existing soap stone treads
- CS - *grant*
 DM - *second – carries*
- TH - seeking variance to 27.4, for inner handrail, proposing compliant wall mounted handrail
- DM - *grant, on the condition wall side handrails provided as proposed*
 MT - *second - carries*

20) Hearing: Powerhouse (Amherst College), 10 East Dr., Amherst (V13-253)

- WW - call the hearing to order
 - introduce the Board

Harold Cutler, Code Consultant (HC)

Kristine Royal, Capital Project Manager for Amherst College (KR)

Aoife Morris, Bruner/Cott Associates, Architect (AM)

- WW - all sworn in
 - EXHIBIT 1 – AAB1-26
- HC - former powerhouse for steam boilers that supplied hot water and steam heat to the campus; now replaced by a new powerhouse
 - therefore, want to reuse the building because of orientation to the campus
 - intended to be gutted
 - 575 square foot mezzanine level, with one stair to it
 - space will also be created for exterior functions
 - spending over 30% and converting from private to public
- KR - this space will be used as an open program space for the students
 - it will be a multifunctional space for use by students, which is not available to the students due to programming needs for the college
 - primary viewing will be an electronic screen on one wall, which will be on the same wall as the mezzanine

- 6 major uses: seated dinner; formal lecture; informal large living room space (televised sport event viewing); performance venue; dance hall; movie screening
- mezzanine won't often be used, but we would like to keep it since it is there

HC - most of the activities are focused on the mezzanine wall, so there will be no viewing advantages to being at the mezzanine level

HC - submittal of space proposals and use of the room and space

WW - accept the plans as EXHIBIT 2, Bruner/Cott Associates, October 15, 2013 Plan A10; EXHIBIT 3, Bruner/Cott Associates, October 15, 2013, Plan A11

AM - two different layouts for elevator or lift

- AAB23, elevator in main space and then up to the mezzanine, which would change the usage of the space

- AAB24, shows the elevator within the mezzanine space, would take up a lot of space within the mezzanine

HC - 70 square feet required of the 570 square feet of the mezzanine space

AM - the elevator within the mezzanine space would also require relocation of the existing steam pipes

HC - cost of the two schemes, within the event space \$308,000.00; within the mezzanine for the elevator would be \$592,000, due to the cost required to move the steam pipes

CS - what about the proposal for a lift or a LULA

AM - didn't propose vertical lift due to the height difference

HC - lift can go 25 feet

DM - 25 feet would be for a LULA

CS - vertical wheelchair lift can travel 14 feet with a variance from the elevator board

MT - mezzanine space utilized as separate space for an event?

HC - contemplated simply as spectator, will not be used as a meeting space

- there is alternate meeting spaces on campus

- the only other use may be for recording an event, although that could be done at the entrance

mezzanine

JD - any comments from the disability commission or independent living center

WW - nothing in the packet

AB - will there be signage at the base of the stairs?

HC - will provide any signage required by the Board

WW - what is the overall square footage of the seating area?

KR - about 3,000 square feet total, 1,800 for the main room, and raised front entrance is 600 square feet

CS - could be performance space setup if people are performing up on the mezzanine

HC - could use the entry area as the raised performance space, as an alternate if they use the other mezzanine as a raised performance space

- would like to see an analysis of the installation of a vertical wheelchair lift to the mezzanine in question

KR - existing condition is that the two openings don't exist; only the one opening is provided

- opening it up to meet the definition of a mezzanine

- want to use it for possible overflow space, but due to the small size of the space

CS - could be used for what, besides spectator space

KR - mainly used as spectator space, present security issues if not opened or monitored

DM - need to see the proposal for a vertical wheelchair lift with cost estimates and plans, or not have the space used at all

- since renovating the building now, why not do it now; but if want to use it in the future, then need to explore the installation of the vertical wheelchair lift

DM - continue to have the petitioners submit a plan and cost estimate for the installation of a vertical wheelchair lift to the mezzanine level in question, to be submitted by November 1, 2013

CS - second

JD - or only allow the use of the mezzanine level in question as overflow only

DM - motion stands as proposed

- carries with MT opposed

21) Discussion: Cases of the Day

- discussion of Powerhouse case (TAPE)

TH - Malden Community Center case (TAPE)

- LUNCH BREAK -

22) Hearing: Ward Hill Church of Christ, 63 L St., Bradford (V13-171)

WW - call hearing to order

- introduce the Board

Alex Burgess, Pastor (ABu)

Edward Smith, Jr., Moderator & Trustee (ES)
Thomas Joyce, Chair of Board of Trustees (TJ)
Emily Doucette, Church Member (ED)
Doris Headley, Church Member (DH)

WW - all sworn in
- EXHIBIT 1 – AAB1-24

ABu - church has been in existence since 1892
- staircase to the worship space
- a few years ago, one of the women within the church was becoming frail and donated a sum of money to have a chair lift installed, to help her and some others to go up the staircase
- goal is to be fully accessible, if the money is there, but due to lack of funds and limited membership, the proposal of a stair chair lift was the best option for the church at this point to help some people get up to the worship area
- submittal of Financial Report for 2008-2012 for the church, and submittal of Church Membership List from 2008-2012

WW - Financial Report – Exhibit 2
- Membership List – Exhibit 3

ABu - the church seats 80 people, and there is an average membership of 20-40 attendees
-considerable cost to create a compliant means of access into the church
- every option would result in a large loss of space for the building and the cost would be excessive
- it would be more cost effective to build a new building

TJ - membership list for 2012 is the official membership
- the names that are highlighted in green are inactive and should be taken off of the list
- congregation is an aging congregation, with limited families, not many young children in the membership
- trying to grow the church
- many congregants use canes, or have more surgeries that create temporary mobility impairments
- the chair lift would help to get the people with some mobility impairments that prevent them from going up the stairs
- the other highlighted members are members that have not been to the church recently, since they cannot go up the stairs, with one of the highlighted women being the one that donated the funds for the proposed stair chair lift
- the lift would help the church attract people who may not be able to negotiate the stairs

ES - to make the whole church accessible is not financially feasible at this time, but the donation will allow for the membership to continue because of the issue with people simple unable to negotiate the stairs
- the stairs are a big deterrent to potential and current members

Abu - sister church that is fully accessible

- ES - submittal of letter from Victoria Bradley, a member of the church since the 1940's
- read letter into the record
- WW - accepted as EXHIBIT 4
- ED - recently diagnosed with COPD and trouble going up the stairs to the worship area
- would like to see the chair lift installed, so that I can continue to go to church
- DH - bad knees and a bad back, by the time I get up the stairs, in pain
- the chair lift would be helpful to me and others
- JD - did commission on disability or Independent living center submittals?
MD - would have been in the hearing packet
- AB - any floor plans?
TJ - floor plans not done for the chair lift installation, based on cost constraints
- assumption is that the installation of a wheelchair lift would not be feasible due to costs
- AB - suggest contacting Boston Society of Architects to see if someone could review the project pro bono
- AAB6, cannot predict that no one will be using a wheelchair in the future
- TJ - understand that cannot predict that currently
- but could propose that a person in a wheelchair go to the sister church that is new and fully accessible
- limited funds and therefore can only do what is currently proposed
- even the installation of the chair lift will require some additional funding that will have to be approved by the membership
- CS - would like to see the money used to start the funds for the installation of a lift that will accommodate a wheelchair
- TJ - also lower area of the church for meeting space after services
- previously had to replace the lower level furnace, and will most likely have to replace the upper level furnace soon
- also need to take trees down around the church, due to hazard of falling
- will also need to put a new roof on the building, \$12-13,000.00
- in 2007 did a cosmetic refurbishment
- want to put some form of access up to the worship space, full access probably won't be for many years, based on other needs of the church
- it is hard to tell someone to go to the sister church, but that church is fully accessible
- ES - in terms of financing, understand could put the money towards the future installation
- but realistically, the installation of compliant access would not be feasible due to the existing budget

- membership would have to expand greatly to cover the costs for creating compliant access, and would be many years down the road (10+ years)
- just want to help some members now

RG - also a liability issue for insurance for the installation of a chair lift
 - can't set a precedent of allowing the use of a chair lift for a public space

DM - take the matter under advisement

MT - second – carries

23) Hearing: Ward Hill Church of Christ, 63 L St., Bradford (V13-171) – Cont'd

DM - motion to reopen

GL - second – carries

DM - deny the request to use the chair lift

RG - second – carries

TH - need to contact building department, since this was originally noted as just a work performed issue for the installation of the chair lift, but based on the testimony given, work has been performed over time that may have triggered full compliance for the building; i.e. furnace, siding, roof

MT - contact the building department to clarify the spending on the building

GL - second – carries

24) Discussion: Dormitory, 40 Chase St., Newton (V13-197)

TH - EXHIBIT – new submittal from Petitioners

- previously approved lift with a ramp
- petitioner still wants to put the vertical wheelchair lift in, to create access to the first floor
- dimensions given and they have been increased since it is a corner post lift (straight-in-side-exit)
- now they just want to propose the lift at the porch, since the neighborhood has accepted that design, since there is pushback from the neighbors about the ramp
- last motion of the Board accepted the ramp into the building and the lift between the first and second floor
- the newly proposed lift would create access to the first floor and the second floor, they are trying to avoid the installation of two lifts, by putting the one lift at the exterior, which will access both the first and second floors of the building
- issue is also the second floor bathroom; the Board had required that one of the second floor bathrooms was required to be made accessible, with additional variances to possibly be required

MT - grant a variance for two years for the completion of the vertical wheelchair lift to the second floor, as shown on Plan B

AB - second – carries

CS - keep the initial vertical wheelchair lift design, creating access to the first floor

AB - second – carries

DM - submit status reports, outlining fundraising and project timeframe, every four months, starting January 1, 2014.

MT - second – carries

- JD no longer present -

25) Hearing: Oak Grove Community Center, 6 Grove St., Malden (C13-003)

WW - called to order

- introduce the Board

John McNaught, Jr., Assistant City Attorney for City of Malden (JM)

Stephen Melanson, Director of Public Facilities for City of Malden (SM)

Scott Fitzpatrick, Inspector of Buildings for City of Malden (SF)

James Nestor, Malden City Councilor (JN)

Paul Sieswerda, Malden Resident (PS)

Bill Edmondson, Malden Resident (BE)

Patrick Hayes, Malden Resident (PH)

Linda Eisner, Former Director of Oak Grove Improvement Association (LE)

Carol Melle, Oak Grove Improvement Association (CM)

George Bayers, Complainant (GB)

Paul Edwards, Massachusetts Senior Action Council Organizer (PE)

Howard McGowan, Complainant (HM)

Bonnie Galayda, Oak Grove Improvement Association (BG)

Brian Triber, Oak Grove Improvement Association (BT)

Eileen Feldman, Boston Center for Independent Living (EF)

WW - all those present sworn in

- EXHIBIT 1 – AAB1-61

TH - letter from Eileen Feldman, Access Consultant for Boston Center for Independent Living, dated October 11, 2013

WW - accept as EXHIBIT 2

WW - October 21, 2013 letter from Complainants, George Bayers and Howard McGowan of Mass Senior Action Council Metro North Chapter – EXHIBIT 3

GB - read letter (EXHIBIT 3) into the record

- the letter noted that the Oak Grove Community Center did not have an accessible entrance and there was no access to the second floor
- the original complainant, Joanne Roposa, was not able to attend for health reasons, but representing her

- JM
- walkway was not meant as a walkway to the entrance, as it cuts across the lawn and was built by the community, not the City
 - it was a pathway to cut across the front lawn to the Community Center, so therefore the community built the walkway to make the pathway, which was just a muddy grass path
 - agree with the complaints regarding the walkway, but disputing the complaints regarding the reconstruction of the stairs

DM - find in favor of the complainant regarding 521 CMR 22.2, walkway width, and 22.3, walkway slope

RG - second – carries

- JM
- not sure of accuracy of tread complaint for stairs, do agree that the stair treads are not even
 - one of the volunteer groups repaired the stairs in 2008, but they were not reconstructed
 - submittal of packet of information

WW - accept submittal of “Table of Exhibits” as EXHIBIT 4

- SF
- building permit was issued for the repair of the stairs

WW - any plans or costs for the permit stairs

- only provided what was in the file, permit was issued in 2008
- understand that the permit says per plans, but there was no plan in the file
- permitted it as a minor repair, and did not charge a fee since it was a repair to a City owned building, so no value was listed on the permit for the amount of work done

- MT
- valuation of the work needed and how it plays out for fees and code requirements
 - also wanted to see the building value, per the assessors
 - e-mail within application packet for variance (AAB39), asking for the value of the building to be raised so that requirements for AAB are not triggered

- PH
- submit photos and a detail drawing of the stairs

WW - accept submittal as EXHIBIT 5

- PH
- the existing mortar and the steps were decaying due to water damage
 - some of the bricks on the stairs were pulling up and the tread bricks were cracking and raising as well
 - removed the leading edge of the brick tread, left all of the existing structure that was there and the back side of the brick

- reset the leading edge, and existing riser with new bricks
- tried to maintain consistent line throughout the stairs
- principal at Beacon architectural firm, but present as a resident
- there were a number of groups that contributed funds

WW - comparable work based on RS Means?

- estimate at around \$15,000.00

TH - at a minimum would have needed variance for the lack of compliant consistent treads and risers
WW - also an issue with the general building code
- no definitive description of what work was done until now

DM - need to have the Petitioners submit a plan for compliance

JM - work was done at a time, when the assessed value was low
- e-mail that MT referred to was not between City Departments but from an individual

PH - e-mail was from me
- period of growth within the City, question was asked to see if the value of City owner properties had also increased

TH - what were the years that the values were increasing for the City, since the general trend is that values are going down?
- the only reason the value would go up would be if there was work done on the building to increase the value of the building
- values are generally computer generated at a 2% increase, only reason for change of value other than that would be signed off building permits

PH - apologize, just wanted to know the last time the building was assessed

CS - work done in the last three years
- there are no values on the building permits

SF - roof was replaced in 2011
SM - \$9,750.00
JM - also submitted in packet of exhibits

CS - what else was done?
SF - gutter fasciae, soffit work, done in 2008
- \$13,000.00 on the application

SF - a ground sign was also donated and put on the property

TH - building inspector is required to use RS Means, or another estimating procedure, to give a cost estimate for volunteer work

PH - value of the sign was about \$1,500.00

SF - sign was put on the property in 2008

CS - if the work was more than 30% of the assessed value of the building
- this is a community building that should be accessible to all members of the community
- there is not even an accessible toilet room in the building

PH - new heating system put in, roof repairs
- access would be an additional cost, and the City did not have the money to do the accessibility upgrades
- wanted to do as much work to make the building usable, and hope to get funding from the City in the future for access upgrades

JN - no malice, want to work towards making the work better
- the community group just wants to make the building usable, was able to get \$100,000.00 from the meals tax acceptance, which was granted by the Mayor's Office
- there was a list of repairs needed to the building, access was always a subject that came up, but realized that there was not funding to make the building 100% compliant
- asked in February for \$250,000.00 bond, which was denied by the City Council
- there is a good faith effort by the members of the community that use the building and the City to make the building accessible
- unfortunately do not see the funds for the work in the near future either

TH - new heating and money repair need to be clarified

DM - have the City of Malden present a plan, showing all of the renovations that went on the building, including cost (whether real, or estimated for volunteer work), and plan for compliance or variance application with a timeline to address the violations of 521 CMR, to be received by the Board no later than January 1, 2014.

MD - the basis of the complaint was work performed

GL - second

- DM no longer present -

LE - read letter into record
WW - accept as EXHIBIT 6
- tried in the past to get funding for accessibility upgrades
- upset that the \$100,000.00 that was allotted to the building was not used for accessibility upgrades as well

CM - submit written testimony
WW - accept as EXHIBIT 7

- submit copy of the recording from the Oak Grove Community Building Committee Meeting from August 16, 2012; flash drive; and pictures of walkway

WW - accept as EXHIBIT 8

- submit timeline of work done on the building

WW - accept as EXHIBIT 9

JN - never tried to circumvent the law, want to make that clear

JM - not enough time to present the case, but will complete the variance application to seek time to comply
- older building and the City doesn't have the money to do the work currently

Previous motion carries unanimously

- JD now present -

26) Hearing: Schwab Natatorium, Eaglebrook School, 3 Rice's Ferry Rd., Deerfield (V13-211)

WW - called to order

- introduce the Board

Laura Berman, Windigo Architecture (LB)

David Spence, Windigo Architecture (DS)

Bo Tanner, Aquatics Director for Eaglebrook School (BT)

Wes Smith, Project Manager for Eaglebrook School (WS)

Harold Cutler, Code Consultant for the Petitioners (HC)

WW - all sworn in

- EXHIBIT 1 – AAB1-46

DS - photos of the building

WW - accepted as EXHIBIT 2

DS - building was built in 1995

- overall square footage of the building is 13,500

- two stories, upper story has covered entryway, bathrooms, a faculty fitness room, and viewing room

- lower level includes direct covered entryway to the pool, locker rooms, pool, coaches' office, laundry, pool mechanical space, and the building mechanical systems space

- east side of the building seems to be one-story structure and the west side is a two-story, since the building is built into a hillside

- the hillside also resulted in parking locations at each level of the building, with each parking location having accessible parking spaces near the entryways

- each level enters into lobby area

- lower level area entrance is for swimmers and coaches, designed so that swimmers and coaches go through one entrance and parents and other spectators go through the upper level entrance
- due to the pool, humidity of the pool has been pushed out and the roof materials have been affected and the ridge line of the roof has separated
- the pool needs to be under negative pressure, with air moving inward
- no air or vapor barrier system installed and improper operation of the HVAC system have caused the need for these repairs
- the repairs will be significantly more than the assessed value of the building, with the work estimated to cost \$1,760,000.00 and the value of the building being \$1,234,400.00
- to replace the building completely would cost \$6,000,000.00
- elevator plans

WW - EXHIBIT 3

- in order to put an elevator into the building, would have to be an independent structure built alongside of the building
- the elevator tower would be adjacent to the building and would have to be bridged over to the lobby
- Location 1 elevator would cost well over \$500,000.00
- Location 2 would be thru the fitness center at the west side of the building
- could get through the fitness room, but the elevator would be in the coach's office
- Location 3 would require entrance to the building at the end of the building, and thru the boiler room and pool equipment
- Location 4 for the elevator would open right out onto the pool deck, which would be an issue in controlling the climate of the pool space and the lobby space
- Location 5, mechanical shaft way close to the entryway, which would require removal of significant amount of duct work, but would come into girls' locker room and would require the relocation of three showers in the girls' locker room
- Location 6 would result in an elevator with significant constraints due to the existing adjacent stairs

- LB
- limited to demoing the building to a certain point near the stair because of the beam overhead, which would result in loss of head height if the stair was demoed beyond that point
 - Plan of interior vertical access options

WW - EXHIBIT 4

- with the stair redesigned as a switchback looked at installation of elevator, but that would exceed the available floor plan
- standard vertical wheelchair lift would also impede into the stair by approximately 2" and leaves no tolerances for construction, and if moved in at all would not have a compliant stair landing
- door swing into the stair well from the locker rooms would not have enough clearance due to the lift door swinging into the required clear floor space for the corridor door at the lower level
- also looked at putting an incline lift on the existing stairs, but would not be able to due to the existing width
- if the stairs were widened, but kept in their existing configuration, the lift would not be able to be supported at the bottom of the stairs, and the lift would block the lower level door to the corridor
- if the stairs are reconfigured to a switchback stair, then the incline wheelchair lift would impede the door clearances for the door into the lower level pool filtration room/mechanical room and the laundry room

- DS
 - stair is there between levels as a means of egress, not used as a common path of travel between floors
 - if one entrance is open to the building, then both entrances are open
 - it was intentional, when the building was built to have the swimmers and coaches separate from the spectators

- BT
 - do not mix spectators with swimmers for many reasons: pool deck is for swimmers only; don't want street shoes on the pool deck, for liability reasons
 - enter thru the locker rooms; building used mostly for competitions and training
 - area at the spectators level that is specifically for wheelchairs
 - never allow parents onto the pool deck during competition, only officials (with some being volunteer parents), coaches or swimmers are allowed on the pool deck
 - pool deck is accessible from the lower level parking
 - the door to the stairs at the lower level is locked and is only accessed for emergency egress

- DS
 - two variances sought, one for the vertical access between floors and the other for the on-deck pool lift

- CS
 - clarification of wheelchair seating location
- BT
 - right up against the barrier can probably fit at least 8 wheelchairs

- CS
 - accessible toilets?
- DS
 - fully accessible toilet rooms at the upper and lower level
- LB
 - lower level accessible toilet rooms are in the lower level

- CS
 - to go down to the swimmers after the meet
- BT
 - have to go outside and come back for all, since the USA Swim has a written policy that no parents on the pool deck
 - don't want parents on the pool deck or in the locker rooms, since they would have to go thru the pool deck to get to the locker rooms
 - you can communicate from the spectator level

- TH
 - two-story buildings in 1995 were required since there was a related use for this building
 - vertical access would have been required since there is an internal stair between related uses
 - is the stair between the two levels required for egress

- DS
 - it is required for egress, panic hardware out of the locker room corridor
 - the lower level door is locked so that you cannot get out onto the pool deck from the lower level stair

- BT
 - walk around the building via walkway at the end of the building
 - that area is always plowed first, since the maintenance staff knows that she needs to get to into and around the building
 - walkway is less than the slope of the ramp, since familiar with ramp slopes

- DS
 - had to design to 5%, and no alterations since then

LB - approximately 180 feet from door to door

CS - *grant the variance for the lack of vertical access, on the condition that the lower level doors to the pool deck remain locked, as per testimony, that there is signage showing the accessible egress routes, noting entrance is to what portion of the building (i.e. spectator entrance and swimmers entrance), and that the Petitioners submit confirmation that the walkway slope is 5% or less*

JD - second - carries

HC - proposing portable lift, and will install sockets around the pool deck
- deck along the side of the pool ranges from 5-6 feet
- any permanent installation of a lift into the pool would limit accessibility around the pool

LB - there will be socket locations at the deep and shallow ends, restrictions on the path of travel when the lift is in place
- plan of pool lift location

WW - EXHIBIT 5

BT - what is the issue with the portable lift?

CS - very cumbersome and hard to put in place and ask for

DS - there are fixed points in the pool, so that it would be moved to the sockets in the pool, so not as cumbersome, since they rely on the fixed sockets

LB - would be notified in advance if a person needed a lift to get into the pool, so the lift would be in place prior to the person

JD - life guard always present?

DS - yes, the pool is not used unless a life guard is there

TH - new ADA requires permanently installed lift

BT - fixed lift would obstruct the ability to coach the kids around the pool, since would not be able to get around the pool deck

BT - there are coaches on the pool deck to help with any transfers into the pool
- have coached Paralympics in the past and those athletes just jump in and choose not to use the lift

JD - *grant the use of a semi-portable lift, on the condition that the life guards and other staff that has regular access to the pool deck is trained in the use of the semi-portable pool lift; based on the use of the pool*

CS - second - carries

27) Incoming Discussion: Nesbit Inn, 21 Broad St., Nantucket (V13-259)

- TH - EXHIBIT – new submittal from Petitioners
- spending is well over 30%
 - seeking variances to two of the existing entrances (25.1)
 - there will be a new addition at the back of the building which will have 27 new rooms, with a full elevator and a fully accessible first floor

CS - *grant the variance requested for the 2 existing entrances*

MT - *second – carries*

- TH - inaccessible guest room and historic parlor doors
- proposing offset hinges, proposing 30.5” clear

GL - *grant 26.5, as proposed with the installation of offset hinges*

MT - *second – carries*

- TH - handrails at stairs, interior, entrance and side entrance

MT - *motion to grant the lack of compliant interior handrails, on the condition that compliant wall mounted handrails are installed*

GL - *second – carries*

JD - *deny the variance for the lack of compliant exterior handrails, with the understanding that the petitioners may amend their variance to request a historic profile instead of the round or oval profile required.*

MT - *second – carries*

28) Discussion: All Newton Music School, 321 Chestnut St., Newton (V11-138)

- TH - EXHIBIT – e-mail from petitioners
- confusion by the petitioner on the previous order
 - Petitioner thought that they had until the summer of 2015, when the order was for February 1, 2014 (per the petitioners’ original request)
 - now seeking an extension to the summer of 2014 to complete the installation of the LULA

JD - *grant an extension to the installation of the LULA to allow until January 1, 2015, at which time the Board shall receive confirmation of installation, inspection and that the lift is in working order; status report to require a status report, to include a contract and copy of the deposit check for the equipment, to be received by the Board on February 1, 2014.*

MT - *second - carries*

29) Discussion: Lancaster Community Center, 39 Harvard Rd., Lancaster (V10-085 and V11-252)

- TH - EXHIBIT – status report

- proposed to be completed by March 2014 deadline
- would like to require more status updates, such as contract and deposit check for the equipment

JD - require a status update after bids received and approved to include a copy of the executed contract and deposit check

GL - second - carries

30) Incoming Discussion: Strip Mall, 66 Central St., Wellesley (V13-267)

- TH - EXHIBIT – submittal of lease docs
- spending \$250,000.00, change in use
 - lease is until January 31, 2018, so therefore not feasible to create access to the upper level space

JD - grant a time variance until January 31, 2018, on the condition that the vertical access executed contract and deposit check are submitted to the Board once completed

GL - second - carries

31) Incoming Discussion: Pippas Karate Center, 529 & 531 Main St., Acton (V13-248)

- TH - EXHIBIT – submittal from Petitioner
- purchased flower pots to put along the edge of the building to deal with the issue of slopes of the walkway at the edge of the building; remaining portion of the sidewalk is compliant
 - now only variance required is for the slope of the accessible parking spaces which measures 2-3% (2% required)
 - letter of support from Acton Commission on Disability

CS - grant as proposed

JD - second - carries

32) Incoming: Curb Cut at Southwest Corner of Washington and Laurel St., Wellesley (V13-279)

- TH - EXHIBIT – variance application
- variance to 21.3 for cross slope of curb cut at the top and leading to the gutter line is 13.6-15%
 - technologically infeasible due to a crown in the road

JD - deny

CS - second – carries

33) Discussion: Barrington Stage Company, 36 Linden St., Pittsfield (V12-190 & V13-217)

- TH - on September 23, 2013 decision of hearing, asked petitioner to work with local commission to design a sign for notifying people of the steep slope at the ramp

JD - accept signage and install within 2 weeks receipt of the decision of the Board

MT - second – carries with CS abstaining

34) Incoming Discussion: Sidewalk at 179 Great Rd., Acton (V13-227)

TH - EXHIBIT – new submittal

- two items that were ordered in the notice of action were not provided
- so need to have those two items finalized

JD - require confirmation of meeting the outstanding requirements of previous notice of action within 2 weeks receipt of amended notice of action

GL - second – carries

35) Discussion: Whitman Town Park, Park Ave., Whitman (C13-000)

MD - hearing scheduled for 2 weeks from today

- hearing was scheduled because of lack of correspondence from the town
- received letter noting progress, and asking if they have to come to the scheduled hearing
- still no timelines for compliance received

AB - maintain the hearing and require Town of Whitman representatives, including the Building Inspector, to appear

MT - second – carries

- End of Meeting -